

REMARKS

This is in response to the Restriction Requirement dated October 18, 2007 which set forth the following groups of claims:

- I. Group I, Claims 1-27, drawn to an isolated population of antigen presenting cells.
- II. Group II, Claims 28-39, drawn to a method for isolating a population of dendritic cells.
- III. Group III, Claims 40-49, drawn to a method for modulating a T cell response to an antigen.

The application has also been alleged by the Examiner to contain claims directed to more than one species of a generic invention. The species are deemed by the Examiner to lack unity of invention because the Examiner believes that the claims are not so linked as to form a single general inventive concept under PCT Rule 13.1. In particular, Applicants have been further required to elect among the following.

If the claims of Group I are elected:

i) a specific population of cells from the group consisting of an isolated antigen presenting cell alone, or an isolated antigen presenting cell in association with an antigen, a cytokine, a T cell, an NK cell, or a specific combination thereof;

a) if a cell population in association with an antigen is selected,
Applicants are further required to elect a specific type of antigen such as one of those listed in claims 7-10;

b) if a cell population in association with a cytokine is selected,
Applicants are further required to elect a specific cytokine, such as one of those listed in claim 14 or claim 15;

c) if a cell population in association with a T cell is selected, Applicants are further required to elect a specific type of T cell, or a combination of T cells such as one of those listed in claims 20-22;

ii) a specific type of enriched dendritic cell from the group consisting of mature or immature dendritic cells; and

If the claims of Group III are elected

i) Applicants are required to elect a specific type of T cell from the group consisting of CD4 T cells, CD8 T cells, or a mixed population of CD4 and CD8 T cells.

The Examiner has also required that all of the claims readable on the elected Group and species be consonant with the above requirement. Claims 1-3 have been asserted by the Examiner to be generic with respect to an antigen presenting cell/dendritic cell, and claims 40-46 have been asserted to be generic with respect to a T cell.

The Examiner has alleged that the inventions as set forth as Groups I through III and the species listed above do not relate to a single general inventive concept under PCT Rule 13.1, because, under PCT Rule 13.2, they lack the same or corresponding special technical features. This allegation is based on the Examiner's assertion that the invention of Group I has no special technical feature that defines a contribution beyond that of the prior art of Liu *et al.* 2001, of record. The Examiner alleges that Liu *et al.* teach a population of antigen presenting dendritic cells termed pre-DC1 cells that express CD11c and CD14 citing to page 259 in particular.

As such, since the Examiner believes that the inventions do not contribute a special technical feature when viewed over the prior art they do not have a single general inventive concept and so lack unity of invention. Accordingly, the Examiner has concluded that the inventions of Groups I-III are not so linked to form a single general inventive concept and restriction is believed to be proper.

Further, the Examiner has required restriction between product and process claims. Where Applicants elect claims directed to the product, and the product claims are

subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. Applicants acknowledge that in the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability. Applicants further acknowledge that for the rejoined claims to be allowable the claims must meet all criteria for patentability and that until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. It is also understood that withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined and that in order to retain the right to rejoinder, Applicants have been advised that the process claims should be amended during prosecution to require the limitations of the product claims. It is further acknowledged that the prohibition against double patenting rejections does not apply where the restriction requirement is withdrawn by the Examiner prior to issuance of the patent.

Applicants elect to prosecute Group I, claims 1-27, with traverse. Applicants reserve the right to file a divisional or related application to the subject matter encompassed by any claim of a non-elected group. Further, Applicants elect to prosecute the species directed to a cell population comprising isolated antigen presenting cells alone and also elect to prosecute the species of antigen presenting cells comprising mature dendritic cells.

Applicants do not agree that the claims of the present invention are not so linked as to form a single general inventive concept under PCT Rule 13.1. Further, Applicants do not agree that the application contains claims directed to more than one species of the generic invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. In particular, the Examiner has cited Liu *et al.*, 2001 as teaching a population of antigen presenting cells termed pre-DC1s that express CD11c and CD14. Page 259 has been cited as supporting this assertion. Applicants have reviewed Liu *et al.* and particularly page 259, and do not find the teaching of an antigen presenting cell that expresses CD11c and/or CD14. On the contrary, Liu *et al.* teach a cell population designated pre-DC1 that comprises monocytes. See page 259 cited by the Examiner and Figure 1. Monocytes are not antigen presenting cells, but have the capacity to differentiate into dendritic cells or macrophage, both antigen presenting cells

that have been characterized as lacking CD14. As monocytes are not antigen presenting cells, *Lie et al.* do not teach a population of cells comprising an antigen presenting cell that expresses CD11c and CD14. Since Applicant's invention does contribute a special technical feature when viewed in light of the prior art, the claims do have a single general inventive concept and therefore unity of invention under PCT Rule 13.1 and Rule 13.2. Applicants respectfully request the Examiner reconsider and withdraw the requirement for restriction and that all the claims of the application be subjected to substantive examination.

All requirements for responding to the restriction requirement are believed to have been addressed. If a telephone conference would expedite this matter, the Examiner is respectfully encouraged to contact the undersigned accordingly.

Respectfully submitted,

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